

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

This Notice of Intended Action and the Notice of Intended Action published herein as **ARC 0589C** comprise the second set of changes to the unit time and rate definitions for home- and community-based service (HCBS) waiver and habilitation services. The first set of amendments to affect these changes for HCBS waivers was published in the Iowa Administrative Bulletin as **ARC 0567C** and **ARC 0568C** on January 23, 2013.

These amendments are needed to align reimbursement with new billing code definitions caused by conversion of atypical, state-created codes to nationally recognized codes. Current unit rates have been mathematically adjusted to match the new unit rate (i.e., an hourly rate was divided by 4 to create a 15-minute rate). In addition, these amendments increase rates to equalize service rates across programs (i.e., prevocational habilitation from \$9.91 to \$13.47 per hour). Finally, these amendments change the basis of reimbursement for respite from a retrospectively limited prospective rate to a fee schedule.

The Department is proposing these amendments pursuant to direction from the Centers for Medicare and Medicaid Services (CMS) and The Health Insurance Portability and Accountability Act of 1996 (HIPAA), which states that no state Medicaid department can use atypical billing codes. Most of the codes used to bill waiver services to the Iowa Medicaid Enterprise (IME) are atypical and therefore need to be changed to standardized healthcare common procedure coding system (HCPCS) or current procedural terminology (CPT) codes. Those standardized codes have different unit descriptions from the unit descriptions currently used by the IME. These amendments to rule 441—79.1(249A) will cause the rates of reimbursement to match the unit definitions of the services. For example, the rate of reimbursement for a service that will be defined as 15 minutes will be expressed as a 15-minute rate instead of as an hourly rate.

The Department has determined that moving the retrospectively limited prospective rates for respite to a fee schedule will increase standardization within the service since many respite providers are already paid by fee schedule.

Any interested person may make written comments on the proposed amendments on or before February 26, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because CMS has not indicated that any state can be exempt from the guidelines relating to atypical billing codes. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule **79.1(2)**, provider category “HCBS waiver service providers,” paragraphs “6,” “18,” “19,” “23,” “24,” “26” and “28,” as follows:

Provider category	Basis of reimbursement	Upper limit
6. Respite care when provided by:		
Home health agency:		
Specialized respite	Cost-based rate for nursing services provided by a home health agency	Effective 4/4/13 <u>7/1/13</u> , provider’s rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: Lesser of maximum Medicare rate in effect 11/30/09 plus 2%, <u>converted to a 15-minute rate</u> , or maximum Medicaid rate in effect 6/30/12 plus 2%, converted to an hourly <u>a 15-minute rate</u> , not to exceed \$302.88 per day.
Basic individual respite	Cost-based rate for home health aide services provided by a home health agency	Effective 4/4/13 <u>7/1/13</u> , provider’s rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: Lesser of maximum Medicare rate in effect 11/30/09 plus 2%, <u>converted to a 15-minute rate</u> , or maximum Medicaid rate in effect 6/30/12 plus 2%, converted to an hourly <u>a 15-minute rate</u> , not to exceed \$302.88 per day.
Group respite	Retrospectively limited prospective rates. See 79.1(15) Fee schedule	Effective 4/4/13 <u>7/1/13</u> , provider’s rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: \$13.38 per hour <u>\$3.35 per 15-minute unit</u> , not to exceed \$302.88 per day.
Home care agency:		
Specialized respite	Retrospectively limited prospective rates. See 79.1(15) Fee schedule	Effective 4/4/13 <u>7/1/13</u> , provider’s rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: \$34.43 per hour <u>\$8.61 per 15-minute unit</u> , not to exceed \$302.88 per day.
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15) Fee schedule	Effective 4/4/13 <u>7/1/13</u> , provider’s rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: \$18.37 per hour <u>\$4.59 per 15-minute unit</u> , not to exceed \$302.88 per day.
Group respite	Retrospectively limited prospective rates. See 79.1(15) Fee schedule	Effective 4/4/13 <u>7/1/13</u> , provider’s rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: \$13.38 per hour <u>\$3.35 per 15-minute unit</u> , not to exceed \$302.88 per day.

Nonfacility care:		
Specialized respite	Retrospectively limited prospective rates. See 79.1(15) Fee schedule	Effective 4/4/13 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: \$34.43 per hour \$8.61 per 15-minute unit, not to exceed \$302.88 per day.
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15) Fee schedule	Effective 4/4/13 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: \$18.37 per hour \$4.59 per 15-minute unit, not to exceed \$302.88 per day.
Group respite	Retrospectively limited prospective rates. See 79.1(15) Fee schedule	Effective 4/4/13 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: \$13.38 per hour \$3.35 per 15-minute unit, not to exceed \$302.88 per day.
Facility care:		
Hospital or nursing facility providing skilled care	Fee schedule	Effective 4/4/13 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: \$13.38 per hour \$3.35 per 15-minute unit, not to exceed the facility's daily Medicaid rate for skilled nursing level of care.
Nursing facility	Fee schedule	Effective 4/4/13 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: \$13.38 per hour \$3.35 per 15-minute unit, not to exceed the facility's daily Medicaid rate.
Camps	Retrospectively limited prospective rates. See 79.1(15) Fee schedule	Effective 4/4/13 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: \$13.38 per hour \$3.35 per 15-minute unit, not to exceed \$302.88 per day.
Adult day care	Fee schedule	Effective 4/4/13 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: \$13.38 per hour \$3.35 per 15-minute unit, not to exceed rate for regular adult day care services.

Intermediate care facility for persons with an intellectual disability	Fee schedule	Effective 4/4/13 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a</u> <u>15-minute rate</u> . If no 6/30/12 rate: \$13.38 per hour <u>\$3.35 per</u> <u>15-minute unit</u> , not to exceed the facility's daily Medicaid rate.
Residential care facilities for persons with an intellectual disability	Fee schedule	Effective 4/4/13 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a</u> <u>15-minute rate</u> . If no 6/30/12 rate: \$13.38 per hour <u>\$3.35 per</u> <u>15-minute unit</u> , not to exceed contractual daily rate.
Foster group care	Fee schedule	Effective 4/4/13 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a</u> <u>15-minute rate</u> . If no 6/30/12 rate: \$13.38 per hour <u>\$3.35 per</u> <u>15-minute unit</u> , not to exceed daily rate for child welfare services.
Child care facilities	Fee schedule	Effective 4/4/13 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a</u> <u>15-minute rate</u> . If no 6/30/12 rate: \$13.38 per hour <u>\$3.35 per</u> <u>15-minute unit</u> , not to exceed contractual daily rate.
18. Supported community living	Retrospectively limited prospective rates. See 79.1(15)	Effective 1/1/13 <u>For intellectual</u> <u>disability and brain injury</u> <u>waiver effective 7/1/13: \$35.68</u> <u>per hour \$8.92 per 15-minute</u> <u>unit</u> , not to exceed the maximum daily ICF/ID rate per day in effect 6/30/12 plus 2%.
19. Supported employment:		
Activities to obtain a job:		
Job development	Fee schedule	Effective 1/1/13, provider's rate in effect 6/30/12 plus 2%. If no 6/30/12 rate: \$927.18 per unit (job placement). Maximum of two units per 12 months.
Employer development	Fee schedule	Effective 1/1/13, provider's rate in effect 6/30/12 plus 2%. If no 6/30/12 rate: \$927.18 per unit (job placement). Maximum of two units per 12 months.
Enhanced job search	Retrospectively limited prospective rates. See 79.1(15)	Effective 4/4/13 7/1/13: <u>\$35.68</u> <u>per hour \$8.92 per 15-minute</u> <u>unit</u> . Maximum of 26 hours <u>104</u> <u>units</u> per 12 months.

Supports to maintain employment	Retrospectively limited prospective rates. See 79.1(15)	Effective 4/1/13 7/1/13: \$35.68 per hour <u>\$8.92 per 15-minute unit</u> for all activities other than personal care and services in an enclave setting. \$20.21 per hour <u>\$5.05 per 15-minute unit</u> for personal care. \$6.31 per hour <u>\$1.58 per 15-minute unit</u> for services in an enclave setting. \$2,941.38 per month for total service. Maximum of 40 <u>160</u> units per week.
23. Prevocational services	Fee schedule	County contract rate or, in absence of a contract rate, effective 4/1/13 7/1/13: Lesser of provider's rate in effect 6/30/12 plus 2%, \$49.18 per day, \$24.59 per half day , or \$13.47 per hour.
24. Interim medical monitoring and treatment:		
Home health agency (provided by home health aide)	Cost-based rate for home health aide services provided by a home health agency	Effective 4/1/13 7/1/13: Lesser of maximum Medicare rate in effect 11/30/09 plus 2%, <u>converted to a 15-minute rate</u> , or maximum Medicaid rate in effect 6/30/12 plus 2%, converted to an hourly <u>a 15-minute rate</u> .
Home health agency (provided by nurse)	Cost-based rate for nursing services provided by a home health agency	Effective 4/1/13 7/1/13: Lesser of maximum Medicare rate in effect 11/30/09 plus 2%, <u>converted to a 15-minute rate</u> , or maximum Medicaid rate in effect 6/30/12 plus 2%, converted to an hourly <u>a 15-minute rate</u> .
Child development home or center	Fee schedule	Effective 4/1/13 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: \$13.38 per hour <u>\$3.35 per 15-minute unit</u> .
Supported community living provider	Retrospectively limited prospective rate	Effective 4/1/13 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: \$35.68 per hour <u>\$8.92 per 15-minute unit</u> , not to exceed the maximum ICF/ID rate per day in effect 6/30/12 plus 2%.
26. Day habilitation	Fee schedule	Effective 4/1/13 7/1/13: County contract rate <u>converted to a 15-minute or daily rate</u> or, in the absence of a contract rate, provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute or daily rate</u> . If no 6/30/12 rate: \$13.47 per hour , <u>\$3.37 per 15-minute unit</u> \$32.79 per half day , or \$65.58 per day.

28. Family and community support services	Retrospectively limited prospective rates. See 79.1(15)	Effective 4/4/13 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: \$35.68 per hour <u>\$8.92 per 15-minute unit.</u>
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ITEM 2. Amend subrule **79.1(2)**, provider category "Home- and community-based habilitation services," paragraphs "2" to "5," as follows:

Provider category	Basis of reimbursement	Upper limit
2. Home-based habilitation	Retrospective cost-related. See 79.1(24)	Effective 7/1/13: \$46.70 per hour <u>\$11.68 per 15-minute unit</u> , not to exceed \$6,083 per month, or \$200 per day.
3. Day habilitation	Retrospective cost-related. See 79.1(24)	Effective 7/1/13: \$13.21 per hour , <u>\$3.30 per 15-minute unit</u> \$32.15 per half day , or \$64.29 per day.
4. Prevocational habilitation	Retrospective cost-related. See 79.1(24)	Effective 7/1/13: \$9.94 <u>\$13.47</u> per hour; \$24.11 per half day ; or \$48.22 per day.
5. Supported employment:		
Activities to obtain a job:		
Job development	Fee schedule	\$909 per unit (job placement). Maximum of two units per 12 months.
Employer development	Fee schedule	\$909 per unit (job placement). Maximum of two units per 12 months.
Enhanced job search	Retrospective cost-related. See 79.1(24)	Effective 7/1/13: Maximum of \$34.98 per hour <u>\$8.75 per 15-minute unit</u> and 26 hours <u>104 units</u> per 12 months.
Supports to maintain employment	Retrospective cost-related. See 79.1(24)	Effective 7/1/13: \$6.19 per hour <u>\$1.55 per 15-minute unit</u> for services in an enclave setting; \$19.81 per hour <u>\$4.95 per 15-minute unit</u> for personal care; and \$34.98 per hour <u>\$8.75 per 15-minute unit</u> for all other services. Total not to exceed \$2,883.71 per month. Maximum of 40 <u>160</u> units per week.

ITEM 3. Amend subrule 79.1(15) as follows:

79.1(15) HCBS retrospectively limited prospective rates. This methodology applies to reimbursement for HCBS supported community living; HCBS family and community support services; HCBS supported employment enhanced job search activities; and HCBS interim medical monitoring and treatment when provided by an HCBS-certified supported community agency; ~~HCBS respite when provided by nonfacility providers, camps, home care agencies, or providers of residential-based supported community living; and HCBS group respite provided by home health agencies.~~

a. and b. No change.

c. *Prospective rates for new providers other than respite.*

(1) to (3) No change.

d. *Prospective rates for established providers other than respite.*

(1) to (5) No change.

~~e. Prospective rates for respite. Prospective rates for respite shall be agreed upon between the consumer, interdisciplinary team and the provider up to the maximum, subject to retrospective adjustment as provided in paragraph "f."~~

f. and g. No change.

ITEM 4. Amend paragraph 79.1(24)"a" as follows:

a. Units of service.

(1) No change.

(2) A unit of home-based habilitation is ~~one hour (for up to 7 hours per day)~~ a 15-minute unit (for up to 31 units per day) or one day (for 8 or more hours per day), based on the average hours of service provided during a 24-hour period as an average over a calendar month. Reimbursement for ~~hourly~~ services shall not exceed the upper limit for daily home-based habilitation services set in 79.1(2).

1. The daily unit of service shall be used when a member receives services for 8 or more hours provided during a 24-hour period as an average over a calendar month. The ~~hourly~~ 15-minute unit shall be used when the member receives services for ~~1 to 7 hours~~ 1 to 31 15-minute units provided during a 24-hour period as an average over a calendar month.

2. No change.

(3) A unit of day habilitation is ~~an hour, a half-day (1 to 4 hours), 15 minutes (up to 16 units per day)~~ or a full day (4 4.25 to 8 hours).

(4) A unit of prevocational habilitation is ~~an hour, a half-day (1 to 4 hours), (for up to 4 units per day)~~ or a full day (4 4.25 to 8 hours).

(5) A unit of supported employment habilitation for activities to obtain a job is:

1. One job placement for job development and employer development.

2. ~~One hour~~ A 15-minute unit for enhanced job search.

(6) A unit of supported employment habilitation supports to maintain employment is ~~one hour~~ a 15-minute unit.